

REMARKS

**Double Patenting Rejection**

The Examiner has provisionally rejected claims 1-3 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of copending Application No. 09/717,772 (the '772 application). The Examiner has also provisionally rejected claims 4-7 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4-7 of the '772 application. Further, the Examiner has provisionally rejected claims 8-10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8-10 of the '772 application. Finally, the Examiner has provisionally rejected claims 11, 12, and 13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11, 12, and 13, respectively of the '772 application. As the Examiner states, these rejections are provisional obviousness-type double patenting rejections because the conflicting claims have not in fact been patented.

Applicant does not agree that the claims of this application are not patentably distinct from those in the '772 application. Nevertheless, in an effort to expedite prosecution of this application, applicant submits a terminal disclaimer to obviate the double-patenting rejection.

**Summary**

Now pending in this application are claims 1-13. Of these claims, claims 1, 4, 8, 11, 12 and 13 are independent.

Applicant : Koji Hayashi  
Serial No. : 09/718,155  
Filed : November 21, 2000  
Page : 3 of 3

Attorney's Docket No.: 10449-  
026001 / P1S2000215US

Enclosed is a fee associated with filing a terminal disclaimer. No additional fees are believed to be due. However, to the extent fees are due, or if refund is forthcoming, please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket Number 10449-026001.

Respectfully submitted,

Date: August 18, 2005

Fish & Richardson P.C.  
225 Franklin St.  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906

Frank R. Occhiuti  
Frank R. Occhiuti  
Reg. No. 35,306